

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of )	
<b>Consumers Energy Company</b> for )	Case No. U-16924
approval of a Gas Cost Recovery Plan )	
and authorization of Gas Cost Recovery )	
factors for the 12-month period April )	
<u>2012 – March 2013.</u> )	

**NOTICE OF PROPOSAL FOR DECISION**

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on November 1, 2012.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 4300 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before November 15, 2012, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before November 29, 2012. The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN ADMINISTRATIVE HEARING  
SYSTEM  
For the Michigan Public Service Commission

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Sharon L. Feldman  
Administrative Law Judge

November 1, 2012  
Lansing, Michigan

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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**PROPOSAL FOR DECISION**

**I.**

**PROCEDURAL HISTORY**

On December 28, 2011, Consumers Energy Company filed its Gas Cost Recovery (GCR) plan and proposed factors under MCL 460.6h. In its filing, the company projected a total GCR cost of gas for the plan year April 2012 to March 2013 of \$908,946,000, and requested approval of a base GCR factor of \$5.4503 per Mcf, with a contingency mechanism based on NYMEX prices. The company's filing was accompanied by the testimony of witnesses Shawn D. Burgdorf, Lori M. Harvey, David W. Howard, Erin A. Rolling, and Lincoln D. Warriner.

At the February 1, 2012 prehearing conference, the company and Staff appeared, and the following parties intervened: Attorney General Bill Schuette, the

Residential Ratepayer Consortium (RRC), and the Michigan Community Action Agency Association (MCAAA).

In accordance with the schedule established at the prehearing conference, on April 20, 2012 the Attorney General filed the testimony of Ralph E. Miller, MCAAA filed the testimony of William Peloquin, and the RRC filed the testimony of Frank J. Hollewa. Consumers Energy and the Attorney General also filed rebuttal testimony on May 11, 2012. All parties filed briefs on June 29, 2012, and reply briefs on July 27, 2012.

The evidentiary record includes the transcript of testimony in two volumes, and 55 exhibits. Official notice was also taken of the testimony given by Mr. Hollewa in Case No. U-16485, including both the prefiled testimony and cross-examination.<sup>1</sup>

## II.

### **OVERVIEW OF THE RECORD AND POSITIONS OF THE PARTIES**

This section reviews the testimony presented by Consumers Energy, Staff, the RRC, the Attorney General, and the MCAAA, as well as the recommendations made by the parties in their briefs. A detailed discussion of the record as it relates to the disputed issues is deferred to a discussion of those disputed issues.

#### **Consumers Energy**

Ms. Rolling presented the factor calculation of \$5.4503 per Mcf based on a total projected GCR cost of gas of \$908,846 and sales of 166,770,000 Mcf, as shown in

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<sup>1</sup> See 3 Tr 432.

Exhibit A-19.<sup>2</sup> In making these calculations, Ms. Rolling testified that she relied on Mr. Howard for the cost of gas supply and for information regarding non-GCR gas supply requirements, and on Mr. Warriner for the GCR sales forecast. Ms. Rolling also presented the company's contingency factor calculation in Exhibit A-21, explaining that the proposed contingency factors raise the GCR ceiling factor in response to changes in NYMEX prices, using the same methodology as previously approved by the Commission. She relied on Ms. Harvey for the calculation of the fractional multiplier, which estimates that amount of the company's gas costs that are subject to changes in the market price of gas.

Ms. Rolling's rebuttal testimony addressed Mr. Peloquin's proposal regarding the economics of storage withdrawals, as discussed in more detail below.

In presenting the company's forecast of sales and transportation requirements for the plan year and five-year forecast period, Mr. Warriner presented Exhibits A-22 through A-34.<sup>3</sup> He described changes in the weather data used in the forecasts, and changes in the economic data to include county-specific as well as state-wide information. He also testified that the regression models used by the company incorporate monthly consumption, weather and economic information to develop monthly sales projections for 12 categories of customers. His Exhibits A-22 through A-25 show monthly forecasts on calendar-month basis, while Exhibits A-26 through A-31 show the underlying billed-month forecast. Exhibit A-32 and A-33 provide comparisons to historical sales levels, and Exhibit A-34 details the major forecast assumptions.

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<sup>2</sup> Ms. Rolling is Senior Rate Analyst in the Rates and Regulatory Department of Consumers Energy. Her testimony is transcribed at 2 Tr 26-64, including rebuttal testimony and cross-examination. She presented Exhibits A-19 through A-21.

<sup>3</sup> Mr. Warriner is Senior Business Consultant – Lead in the Rates and Business Support Department of Consumers Energy. His testimony is transcribed at 2 Tr 64-87, including cross-examination.

Mr. Burgdorf described the legal and regulatory actions the company has taken with regard to regulated pipelines to minimize the cost of gas.<sup>4</sup> His Exhibit A-1 summarizes interventions before the FERC in 2011, and articulated the company's policy to participate in proceedings that may have a material impact on the cost of gas or availability of interstate transportation.

Mr. Howard testified to present an overview of the company's gas supply plan, including testimony regarding the company's past and proposed fixed-price purchase or "FPP" strategies.<sup>5</sup> Presenting the proposed fixed-price purchase guidelines in Exhibit A-9, Mr. Howard testified that the company is proposing to eliminate the "tiered" purchases from guidelines, and has reduced the "quartile" purchases by eliminating the purchases for years 3 and 4, and limiting the purchases to prices at or below the first quartile of 36-month NYMEX strip prices.

His testimony also discusses the diversity of supply reflected in the company's plans, including expiring transportation contracts. Exhibit A-10 shows the company's projected requirements, supplies, and cost of gas. Exhibit A-12 shows the company's firm and interruptible transportation contracts. Mr. Howard also testified regarding the company's design and peak day winter requirements, shown in Exhibit A-16, and discussed in more detail by Ms. Harvey. Mr. Howard discussed the gas customer choice program, indicating the company is expecting 240,000 choice customers to use 53 Bcf of gas in the plan year, a 5% increase of the company's last plan filing.

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<sup>4</sup> Mr. Burgdorf is a General Engineer in the Transmission and Regulatory Strategies Section of Consumers Energy's Energy Supply Operations Department. His testimony is transcribed at 2 Tr 15-25, including cross-examination.

<sup>5</sup> Mr. Howard is Director of Gas Supply for Consumers Energy. Mr. Howard's testimony is transcribed at 2 Tr 188-257, including rebuttal and cross-examination. He presented Exhibits A-8 through A-18 and Exhibits A-36 and A-37.

Mr. Howard's rebuttal testimony addressed Mr. Miller's testimony on gas transportation requirements, discussed below, and Mr. Hollewa's testimony on the fixed-price purchase plans, also discussed below. In support of his rebuttal testimony he presented Exhibits A-36 and A-37.

Ms. Harvey testified regarding the company's planning for normal and colder-than-normal weather.<sup>6</sup> She discussed the modeling process used to develop colder-than-normal and normal weather purchase plans, and explained that the company's purchase plan and its storage utilization plan are developed together. She testified that modeling is performed for a variety of colder-than-normal weather scenarios, varying by when the colder weather is experienced. She explained that the company's modeling assumes a 4% probability of colder-than-normal weather, and that this equates to a 1 in 25 year occurrence rate of insufficient gas supply, or 13% more heating degree days for the November through March period, in comparison to the 15-year average winter heating degree days. She testified that the company has been using this same probability-based method for the last 20 years, although it switched from a 3% to a 4% probability design basis approximately 10 years ago, following a series of warmer-than-normal winters. Ms. Harvey also described the modeling process used to determine the peak day load requirements, using a design cold day of 80 heating degree days as the peak planned for in January, with lower peaks expected in the subsequent months. She provided details on the company's 15 storage fields and explained that the company undertakes monthly reviews during the plan year to evaluate the withdrawal capability on a field-by-field basis based on actual weather conditions and storage withdrawals

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<sup>6</sup> Ms. Harvey is Director of Financial and Gas System Planning in the Gas Management Services Department of Consumers Energy. Her testimony, including rebuttal and cross-examination, is transcribed at 2 Tr 87-187. She presented Exhibits A-2 through A-7 and A-35.

that have occurred. And she discussed the company's late-season purchase planning, reviewing alternatives the company has considered.

Finally, Ms. Harvey testified to the calculation of the fractional multiplier for the company's proposed contingency matrix.

On rebuttal, Ms. Harvey addressed Mr. Miller's testimony regarding the company's design peak day forecast, and Mr. Peloquin's recommendations regarding the economics of the choice between storage withdrawals and gas purchases in the winter months, both discussed in more detail below.

Consumers Energy also presented Exhibits A-38 through A-44, in connection with its cross-examination of Mr. Miller, Mr. Peloquin and Mr. Hollewa.

In its briefs, Consumers Energy asks the Commission to approve its GCR plan, the gas purchasing strategy guidelines in Exhibit A-9, its filed base GCR factor and contingency matrix in Exhibit A-21, and to find that there are no cost elements of its five-year forecast that the Commission would be unlikely to permit the company to recover in the future. The company opposes the recommendations of the RRC, MCAAA, and the Attorney General, which are discussed in more detail below.

#### MCAAA

MCAAA's witness Mr. Peloquin recommended an alternative approach to the company's storage operation plans. Under this alternative approach, the company would compare the cost per Mcf of storage gas withdrawals to the cost of flowing gas, and minimize storage withdrawals when the cost of flowing gas is below the cost of storage withdrawals. He further testified regarding the company's plan to be able to provide sufficient gas to meet 4% colder-than-normal weather conditions is excessive



given the current market conditions, in which gas is expected to be plentiful and which he characterized as a “gas glut”. He recommended that the company be required to comprehensively address the concept of colder than normal weather planning in its next GCR plan case.

In its briefs, MCAAA urges the Commission to adopt Mr. Peloquin's recommendations regarding storage utilization, emphasizing that MCAAA's proposal calls only for incremental changes in the storage operations to purchase additional quantities of gas during the winter months if it is economically priced and operationally feasible. Although MCAAA's initial brief notes Mr. Peloquin's concern regarding the 4% colder-than-normal weather planning, it does not expressly request specific Commission action in this case.<sup>7</sup>

## RRC

In his testimony for the RRC, Mr. Hollewa recommended that the Commission reject the company's proposed fixed-price purchase guidelines.<sup>8</sup> Reviewing a comparison of fixed-price purchase prices to the market prices at the time of delivery over the last five to seven GCR years, Mr. Hollewa testified that the cost of the fixed price supply exceeded or is forecast to exceed the cost that the company would have paid had it not made the fixed-price purchases by a total of \$1.8 billion. Mr. Hollewa explained his general view that hedging and fixed price programs will not result in lower costs for GCR customers. He testified that the poor performance of the fixed-price purchases compared to market prices at time of delivery, and the current

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<sup>7</sup> See MCAAA initial brief, page 38.

<sup>8</sup> Mr. Hollewa's testimony is transcribed at 3 Tr 379-443, including cross-examination. He presented Exhibits RRC-1 and RRC-2.

projections that the gas market has stabilized, establishes that “the experiment with fixed price purchasing and hedging has been a dismal failure.” In its briefs, the RRC argues that the fixed-price purchase plans should be rejected because they serve no beneficial purchases and unnecessarily expose the GCR customers to the risk of gas costs that exceed market prices.

#### Attorney General

Mr. Miller’s direct testimony addressed four issues.<sup>9</sup> He commented on the company’s gas sales forecast, noting what he characterized as important changes described in Mr. Warriner’s testimony. He testified regarding the company’s gas transportation plans, indicating a concern that the company has reduced its contractual entitlement to firm transportation, with another contract expiring on October 31, 2012, and has not determined how to replace that firm transportation capacity. Mr. Miller also testified regarding the company’s fixed-price purchase plan that it represented an improvement over past plans, and that he was not recommending changes to the plan in this proceeding. Finally, Mr. Miller also testified regarding the company’s peak day load forecasting method, explaining his concern that the peak day forecasting used by the company was not methodologically valid.

In his rebuttal testimony, Mr. Miller addressed Mr. Peloquin’s storage utilization proposal, presenting his analysis of the appropriate economic criteria to use in evaluating the benefits of storage withdrawals versus new purchases.

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<sup>9</sup> Mr. Miller’s testimony is transcribed at 2 Tr 258-351, including rebuttal and cross-examination. He presented Exhibits AG-1 through AG-5.

The Attorney General also presented Exhibit AG-6, a compilation of discovery responses provided by Mr. Miller.

In his briefs, the Attorney General urges the Commission to issue a warning pursuant to MCL 460.6h(7) regarding the company's planning to replace the Trunkline pipeline firm capacity, and requests that the Commission expressly acknowledge Consumers Energy's commitment to refine its design-day peak load forecasting methodology in future cases. The Attorney General urges the Commission to reject MCAAA's proposal regarding storage utilization. And, in his reply brief, the Attorney General also endorses the RRC's recommendation to eliminate fixed-price purchases.

#### Staff

Staff supports the company's proposed GCR plan, factor and contingency matrix. Staff's briefs address the company's proposed fixed-price purchasing guidelines, which it argues are reasonable and prudent. Staff briefs also address MCAAA's storage utilization proposal, and recommend that the proposal be rejected.

### **III.**

#### **DISCUSSION**

Based on the foregoing, the parties raise four contested issues for resolution in this proceeding. Section A addresses MCAAA's recommendation that Consumers Energy alter its winter purchase and storage withdrawal plan to make additional winter purchases if gas prices are favorable. Section B addresses the company's gas purchasing strategy guidelines. Section C addresses the Attorney General's request for a warning under MCL 460.6h(7) regarding the company's plans to replace the expiring

Trunkline firm transportation contract. And section D addresses the Attorney General's concern regarding the design peak day forecast.

A. Storage utilization/accounting

MCAAA argues that Consumers Energy could reduce the GCR cost of gas by purchasing greater quantities of gas in the winter, if the market price of gas is below the average cost of gas in storage. Mr. Peloquin presented Exhibit MCAAA-1 to show potential savings to GCR customers:

Page 2 of Exhibit MCAAA-1 demonstrates that GCR customers could potentially save about \$87 million if storage withdrawals were replaced with purchases of flowing gas. In other words, every Mcf of storage gas withdrawn during the 2012-2013 winter months cost the GCR customers a \$1.05 per Mcf premium over the cost of flowing gas! This is based upon Consumers numbers.<sup>10</sup>

Mr. Peloquin acknowledged that not all storage withdrawals could be replaced with flowing gas:

Consumers should always compare the cost per Mcf of storage gas withdrawals with that of flowing gas. If the incremental cost of flowing gas is less than that of storage withdrawals, then Consumers should minimize storage withdrawals. Consumers should maximize storage withdrawals only when it reduces the current GCR Plan year's expenses. A dollar saved this year is worth more than a dollar saved tomorrow.<sup>11</sup>

He also acknowledged that deferring storage withdrawals would increase the costs of storing gas by increasing storage inventories, but he testified that these costs are recovered in base rates, and further: "Consumers ratepayers are already paying the company for a dollar value of gas inventory in excess of Consumers Plan case." In

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<sup>10</sup> See 3 Tr 368.

<sup>11</sup> See 3 Tr 371.

support of this testimony, he presented as his Exhibit MCAAA-2 an exhibit from Consumers Energy's recent rate case, Exhibit A-68 in Case No. U-16855, to show the 13-month average balance of GCR storage gas in inventory underlying the rate calculations in that case. He testified that if the company were to maximize its storage withdrawals, it would in turn receive a windfall because the actual gas storage inventory costs would be below the levels set in base rates.<sup>12</sup>

Consumers Energy argues in response that this proposal ignores operational concerns.<sup>13</sup> Ms. Harvey testified that dispatching storage based on market prices is not operationally feasible given the operating characteristics of the storage fields and the way the system is designed:

After the injection cycle storage fields must be withdrawn during the winter period to certain inventory levels in order to manage storage integrity. Storage dispatch based on market prices would prevent the withdrawals required to manage storage integrity under certain conditions and would result in added risks to customers.<sup>14</sup>

Ms. Harvey testified in detail regarding the extent of operational constraints at particular storage fields depending on their characteristics. She testified that using storage rather than purchases as a swing supply could be "very detrimental" to managing storage integrity:

Over the years, the approach of allowing purchases to be the swing supply has been highly effective in managing storage integrity in all weather conditions. Even when using this approach, we have at times experienced difficulty and challenges in meeting the storage integrity requirements during warmer than normal weather conditions and sometimes even during normal weather conditions

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<sup>12</sup> See 3 Tr 370.

<sup>13</sup> See Consumers Energy brief, page 42; reply brief, pages 19-33.

<sup>14</sup> See 2 Tr 144-145.

depending on weather patterns. When weather turns warm during the month, demand decreases and less gas is taken out of storage. The only way to offset lower withdrawals in one month and to manage inventories for the season is to reduce purchases in the remaining period. With this experience, we know that using an opposite approach where storage is the swing supply would not allow for managing storage integrity. In fact, using storage as the swing supply would make managing storage integrity virtually impossible in warmer than normal conditions when market prices are lower than the cost of gas in storage and would exacerbate challenges in normal weather conditions . . . [and] create added risks to customers in colder-than-normal weather conditions.<sup>15</sup>

She further concluded that given the company's plan to refill storage over the summer, no increase in winter flowing gas could be planned for the 2012-2013 GCR year.

Additionally, Consumers Energy argues that Mr. Peloquin's proposal would have the effect of increasing the company's costs of storing gas, and disputes Mr. Peloquin's testimony that the storage inventory cost levels recovered through base rates are currently excessive. Ms. Harvey testified that the costs of gas in storage would increase with purchases in excess of requirements, and that planning to rely on increased winter purchases in future years could subject customers to winter market price increases.<sup>16</sup>

Ms. Rolling testified regarding the distinction between costs recovered in base rates and through the GCR factors.<sup>17</sup> Her rebuttal testimony begins by explaining how "gas in storage" is included as a component of working capital in determining the rate base component of base rates, by using the 13-month average balance sheet method adopted in Case No. U-7350. She testified that only the carrying costs associated with the gas inventory in storage are recovered through the base rates, while the same 13-

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<sup>15</sup> See 2 Tr 147.

<sup>16</sup> See 2 Tr 149.

<sup>17</sup> See 2 Tr 41-45.

month average balance method used in the rate case is used in the GCR case to determine the average cost of gas in storage to be recovered through the GCR factors. At the time she testified, she noted that the Commission had not yet set the working capital allowance in Case No. U-16855,<sup>18</sup> and testified that if MCAAA's proposal is adopted, the storage inventory carrying costs reflected in Exhibit MCAAA-2 would be inadequate. She testified that increasing the average volumes of gas in inventory would increase the 13-month average balances and the carrying costs of the storage gas, while the costs of the higher-priced gas remaining in storage would eventually be recovered from ratepayers.<sup>19</sup>

The Attorney General also opposes MCAAA's proposal. Mr. Miller presented rebuttal testimony addressing economic principles relating to the choice between storage and market supplies. He explained his disagreement with MCAAA's witness as follows:

Mr. Peloquin considers storage withdrawals to be economic only if the book cost of storage withdrawals is less than the cost of purchasing incremental gas supplies. That is not a proper way to view the economics of using storage.

The proper way to view the economics of withdrawing gas from storage is to recognize that the economic cost of using storage is not the accounting or book cost of the gas being withdrawn, but the market cost of replacing that gas when storage is refilled. It is economic to withdraw gas from storage "next month" if the cost of purchasing additional gas supplies for delivery next month is higher than the expected cost of purchasing gas supplies in some later month when storage can be refilled. Conversely, if the cost of refilling storage is expected to be less than the cost of purchasing additional gas supplies this month or next month, then it is uneconomic to make those additional purchases this month

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<sup>18</sup> The Commission's June 7, 2012 order in that docket set rates based on a settlement agreement.

<sup>19</sup> See 2 Tr 41-45.

or next month, even if they are less expensive than the accounting or book cost of withdrawals from storage.<sup>20</sup>

Mr. Miller also presented Exhibit AG-5 to illustrate his view of the proper economic comparison using hypothetical values.

In response to the operational concerns articulated by the company and the Attorney General, MCAAA asserts that the parties have misunderstood MCAAA's proposal, emphasizing that MCAAA's proposal is not rigid and is designed to consider both economic and operational constraints. Regarding the Attorney General's testimony on the proper use of economic analysis in determining when storage withdrawals are economical, MCAAA further responds that the Attorney General's economic analysis does not consider the storage carrying costs included in base rates.<sup>21</sup>

And regarding the company's concerns regarding the increased cost of storage if withdrawals are not made during the year, MCAAA argues that rates have already been set, and that a higher cost of gas was used in the company's most recent rate case, causing that rate case element to be higher than necessary.<sup>22</sup> The company further addresses that argument by noting that base rates include only the inventory cost of storage, the investment in storage inventory is part of the company's working capital requirement, which reflects not only the value of the gas in storage but also the amount of time it is stored. The carrying costs of the storage investment can increase even if the price of gas goes down, because in a warmer winter the average volume in storage may be above the rate case assumptions.

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<sup>20</sup> See 2 Tr 307.

<sup>21</sup> See MCAAA brief, page 38; MCAAA reply brief, pages 2-3.

<sup>22</sup> See MCAAA brief, page 37.



This PFD recommends that the Commission reject MCAAA's proposal for several reasons. First, Mr. Miller's testimony is persuasive that the economic criterion for choosing between storage gas and new purchases of gas is whether the expected replacement cost of the storage gas inventory exceeds the current price of gas. Second, even using proper economic principles, Ms. Harvey's testimony as quoted above is persuasive that operational concerns are paramount. Additionally, as the company argues, it is not appropriate to ignore the potential future increase in the carrying costs of gas storage balances based on a claim that the amount included in current base rates to reflect these costs is excessive. No overall evaluation was presented of the costs and benefits to ratepayers from increasing the costs of gas in storage and the carrying costs associated with storage while potentially reducing the GCR cost of gas in the short term, so it is not possible to conclude on this record that the proposal benefits ratepayers or reasonably minimizes the cost of gas.

B. Purchasing Strategy

Consumers Energy proposes to follow the gas purchasing guidelines contained in Exhibit A-9. Mr. Howard testified regarding these guidelines, explaining changes the company has made since its last plan case including the following: the tiered fixed-price purchases have been eliminated from the guidelines; the only quartile fixed-price purchases will be purchases below the first quartile; and quartile fixed-price purchases will be made only for the upcoming and subsequent GCR year, not for later years.<sup>23</sup> Mr. Howard testified that the company is proposing these changes to the guidelines approved in Case No. U-16485 based on current market conditions. He reviewed the

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<sup>23</sup> See 2 Tr 199.

history of the fixed-price purchase guidelines, and the market conditions in place when those guidelines were first adopted, testifying that gas prices were high compared to historical levels, generally trending upward, with greater volatility.<sup>24</sup> He testified that the company is now expecting gas prices to remain stable or decline:

Fundamentally, U.S. natural gas supply exceeds current U.S. demand due to increased conservation, reduced economic activity, and the continued emergence of new natural gas supplies, developed from the shale gas resources in the U.S. Compared to merely a few years ago, on-shore natural gas production has increased significantly and now represents 20% of U.S. production. This increase in on-shore production should help mitigate large price swings due to abnormal weather events in the Gulf of Mexico, like hurricanes, that have historically caused significant natural gas price volatility. As a result, pricing of future natural gas supply is weak.<sup>25</sup>

His Exhibit A-8 shows historical trends in gas prices. He emphasized that when fixed-price purchases are called for, the company would make the purchases uniformly throughout the month.

The RRC recommends that the Commission reject the fixed price purchase plans, consistent with Mr. Hollewa's recommendation. Mr. Hollewa testified that beginning with the 2006-2007 GCR plan year, the company's gas costs have been a cumulative total of \$1.8 billion above the amount the company would have paid had it purchased all its gas supply at index prices, determined at the time of delivery.<sup>26</sup> Mr. Hollewa further testified that NYMEX futures prices consistently overstate the market prices at the time of delivery. He also believes that the current gas market is stable, and that the stability justifies discontinuation of the program:

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<sup>24</sup> See 2 Tr 200.

<sup>25</sup> See 2 Tr 201.

<sup>26</sup> See 3 Tr 386-387.

There is just no point in continuing a program which has or will create more than \$1.8 billion of increased costs over the documented 7-year period. FPP is currently almost 70% for 2012-2013 and 40% for 2013-2014. This means that no additional FPP would be made under the filed GCR Plan for either of these two years. In my opinion, retaining the FPP program as an available purchasing option could lead to the same abysmal results.<sup>27</sup>

Mr. Hollewa also expressed his opinion that the fixed price purchases are in essence speculative attempts to beat the market.<sup>28</sup> The RRC in its brief quotes his elaboration in cross-examination as follows:

I believe that the experiment with fixed price purchasing and hedging has been a dismal failure and it's cost a lot of money not only in Michigan but in several other areas of the country where they've engaged in that. And I think everybody should stop trying to beat the market by hedging in the guise of claiming stability of prices and pay what the market is because I believe the people understand if you're paying the price that everybody else is paying there's no problem. But I have been personally devastated by the impact it's had on all the customers and the foothold the GCC has developed and how bad that has been for everybody. And I think that fixed price purchasing is the root cause of that, and I think it's obvious. And I would hope we would stop speculating and buy whatever the market price is regardless of whether it's higher or not.<sup>29</sup>

In urging the Commission to eliminate the fixed-price purchase guidelines, the RRC further emphasizes that in addition to the past costs associated with the program, the market volatility that gave rise to the guidelines is no longer present, citing both Mr. Hollewa's testimony and Mr. Howard's testimony on the expected stability of the market.<sup>30</sup>

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<sup>27</sup> See 3 Tr 390.

<sup>28</sup> See 3 Tr389-390.

<sup>29</sup> See 3 Tr 401-402.

<sup>30</sup> See RRC brief, page 7.

The RRC also argues that the existence of the guidelines gives the company a means of avoiding accountability for its gas purchasing decisions by substituting reliance on a formula for experienced decision-making:

One need only examine the record evidence of more than \$1.8 billion in excess gas costs caused by CECo's FPP guidelines over the past 7 years . . . Despite this dismal performance, CECo has never been subject to gas cost disallowances in the GCR Reconciliation process for adhering to the FPP guidelines. This is because the Commission has fully accepted the Company's explanation that because it made gas purchases in conformity with the "Commission-approved" FPP guidelines, those purchases are, by definition, reasonable and prudent. The evidence shows that the FPP guidelines do not provide GCR customers value commensurate with their cost and it is time to end the "get out [of] jail free" card that the FPP guidelines provide Consumers Energy in the GCR Plan and Reconciliation process.<sup>31</sup>

In his direct testimony on behalf of the Attorney General, Mr. Miller characterized the company's proposed changes to the guidelines as "major". He elaborated on Mr. Howard's testimony regarding these changes as follows:

In addition to the four changes [Mr. Howard] lists . . . , I would add a fifth important change:

The monthly quantity of Quartile Fixed Price Purchases has been reduced, and the annual caps on the cumulative total quantity of Quartile Fixed Price Purchases have also been reduced.

Under the prior U-16485 Guidelines, the monthly rate for Below First Quartile Fixed Price Purchases in the "Second GCR Year" was 15% of the remaining requirements for that Second GCR Year. In the current Exhibit A-9, the Monthly Cap for the Second GCR Year is only 5%. The other caps in Exhibit A-9 are lower than the Below First Quartile caps in the U-16485 Guidelines.<sup>32</sup>

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<sup>31</sup> See RRC reply brief, pages 2-3.

<sup>32</sup> See 2 Tr 281.

Mr. Miller testified explicitly that he supported the proposed changes:

Most of the changes that Consumers has proposed this year are changes that I have recommended in Consumers' GCR plan cases in the past three years. . . .

Consumers has this year proposed to eliminate its Tired Fixed Price Purchases, as I previously twice recommended. Consumers has also proposed to eliminate its Second Quartile purchases, as I had recommended; but it has gone further and proposed to eliminate the First Quartile purchases, too. And Consumers has proposed some reduction in the caps on its fixed price purchases.<sup>33</sup>

Mr. Miller did not recommend any further changes to the guidelines, characterizing the restrictions on fixed-price purchases as "extremely stringent", and further testifying:

Consumers' GCR plan in the present proceeding includes major changes to the Guidelines, and the proposed new Guidelines are much, much better than the old ones they will replace. The most important result for the present proceeding will be acceptance of these major changes, and I am not recommending that the Commission should tinker with them further at this time in a contested proceeding. If the parties can agree on some relatively minor further improvements in a settlement, that would also be appropriate; and, if not, there will be another opportunity to suggest further improvements next year.<sup>34</sup>

But in his reply brief, the Attorney General endorses the RRC's recommendation to eliminate the fixed price purchases:

The commission and the parties have now observed several years of significant FPP program failures in minimizing GCR costs. Comparing previous fixed prices with index prices for previous natural gas deliveries . . . may be historical and may or may not be a sufficient reason to disallow prior FPP costs, but history is the only tool we have available to decide

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<sup>33</sup> See 2 Tr 281-282.

<sup>34</sup> See 2 Tr 285-286.

how to reasonably and prudently forecast future results. We may be unable to conclude that making FPP purchases would inevitably result in paying more for its gas supply, but based upon history, FPP purchasing decisions entail a foreseeable risk that the index-based price will be lower when FPP gas is delivered and needed. Therefore, the Commission should not continue to authorize FPP purchases as a standard practice.<sup>35</sup>

Staff supports the company's guidelines, arguing that they are an appropriate response to current market conditions.<sup>36</sup> Staff argues that entirely eliminating the hedging provided by the fixed price purchases would be "an extreme overreaction," asserting it is preferable to scale back on the purchases as the company proposes. Staff emphasizes that there will be opportunities in future cases for all parties to propose further modifications. In its reply brief, Staff amplifies its position that the fixed-price purchase program is "hedging" but not "an attempt to beat the market", reviewing the Commission's June 30, 1994 decision in Case No. U-10385.

In support of its proposed guidelines, Consumers Energy relies in part on Mr. Howard's rebuttal testimony addressing to Mr. Hollewa's analysis. Mr. Howard testified that purchases made under the previously approved guidelines were reasonable when the purchases were made. Specifically addressing Mr. Hollewa's testimony regarding the magnitude of the cost difference between the fixed-price contracts and market prices at the time of delivery, Mr. Howard testified:

Mr. Hollewa's analysis can only be made after the fact. The price comparisons cannot be determined when [purchase] decisions are being made. The risk of waiting to buy monthly index gas exposed the customer to price volatility, hurricane risk and cold weather premiums.<sup>37</sup>

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<sup>35</sup> See Attorney General reply brief, pages 3-4.

<sup>36</sup> See Staff brief, pages 12-14.

<sup>37</sup> See 2 Tr 227.

Additionally, he emphasized the changes the company has made to the guidelines, arguing on that basis that Mr. Hollewa's analysis of past purchases does not provide a valid basis for eliminating the fixed-price purchases called for under the Exhibit A-9 guidelines.<sup>38</sup> Mr. Howard presented Exhibit A-37 to support his testimony that when prior fixed-price purchases were made, the future cost for supply was projected to be higher than the fixed price.

In its briefs, Consumers Energy further argues that the historical differences between the fixed prices and the market prices at the time of delivery identified by Mr. Hollewa are inapposite, do not reflect the current market projections for stable prices, and ignore benefits from the guidelines including cost containment, protection against price volatility, and price shocks that can occur due to hurricanes or cold weather.<sup>39</sup> Consumers Energy further responds to the RRC's arguments by citing the Commission's March 2, 2010 decision in Case Nos. U-15704, and December 21, 2010 decision in Case No. U-16149, arguing that the Commission has previously rejected the argument that the historical comparisons provide a valid basis to abandon all fixed price purchases.

Addressing the argument that the company is improperly attempting to beat the market, Consumers Energy argues that the futures market is a real market, and that futures prices reflect the "current" price of gas to be delivered at a given point in the future; thus, purchases at the futures price are not attempts to "beat the market":

[W]hen a fixed price purchase is made, this is not a forecast of what a future "actual market price" will be. Rather that

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<sup>38</sup> See 2 Tr 228.

<sup>39</sup> See Consumers Energy brief, pages 23-25.

fixed price is the then current actual market price. All fixed price purchases are made at the then current actual market price of gas for the delivery period as of the time the purchase is executed.<sup>40</sup>

This PFD recommends that the Commission approve the revised guidelines presented in Exhibit A-9. In its March 2012 decision in Case No. U-16485, the Commission indicated that implementation of the fixed-price purchase guidelines should consider current and expected market conditions:

[P]urchasing guidelines cannot be used in a vacuum; they must be combined with a fundamental analysis of the market *at the time of purchasing*. Thus, if there are current or expected market factors that would conflict with the guidelines, these factors must be taken into account and the company must use discretion, up to and including deviating from the guidelines, if actual circumstances warrant such action. If this departure turns out badly for customers, it will certainly be challenged in the reconciliation, but such challenges will fail if the company provides clear evidence for why it set the guidelines aside.<sup>41</sup>

Consistent with Mr. Miller's testimony, and the recommendations he has made in several prior proceedings, Consumers Energy has significantly reduced its reliance on fixed-price purchases. Because of this significant reduction, and because market conditions are expected to be relatively stable, it is not appropriate to use past differences between futures market prices at the time of a fixed-price purchase and current market prices at the time of delivery as a prediction of the future.

Regarding the RRC's concern that the company avoids accountability for decision-making by using the guidelines as a formula, the Commission's order in Case No. U-16485 quoted above made clear that the company has to exercise discretion in

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<sup>40</sup> See Consumers Energy reply brief, page 8 (emphasis in original), also citing Howard, 2 Tr 205.

<sup>41</sup> See March 8, 2012 order, Case No. U-16485, pages 18-19 (emphasis in original).



the implementation of the guidelines. Based on the Commission's holding, this PFD cannot conclude that any purchasing decisions meeting the guidelines will be approved by the MPSC as reasonable and prudent, regardless of the circumstances under which the purchases are made.

C. Gas Transportation

Mr. Howard testified regarding the company's firm and interruptible transportation contracts. He testified that Consumers Energy has access to a diverse mix of supplies from several basins in North America. His Exhibit A-11 shows the sources by season and basin, for normal weather, while his Exhibit A-12 shows the company's firm and interruptible transportation contracts. Mr. Howard testified that the company planned to let its firm transportation contract with Vector pipeline expire in March of 2012 because its requirements could be met through city gate purchases, which he testified were projected to be less expensive. Regarding a Trunkline firm transportation contract expiring in October of 2012, Mr. Howard testified:

Consumers Energy is currently in negotiations with Trunkline and other pipelines to determine the best overall transport value for the customer. Consumers Energy will consider securing firm citygate supplies to replace current firm transportation if the volumes are secure and reliable and the cost is more advantageous than firm transportation alternatives.<sup>42</sup>

Mr. Miller reviewed this testimony on behalf of the Attorney General and testified to his concern that the company has not established that it has reliable transportation or citygate supplies to take the place of expired or expiring firm transportation contracts. Also citing discovery responses provided by the company in Exhibit AG-1, Mr. Miller

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<sup>42</sup> See 2 Tr 209-210.

testified that the company currently has a firm transportation shortfall of 42 MMcf per day due to the expiration of the Vector contract, and will have an increased shortfall when the Trunkline contract expires October 31, 2012. He acknowledged Mr. Howard's testimony that the company is currently negotiating to replace this supply, and that it will consider city gate supplies as an alternative if they are "secure and reliable". He explained his concerns that city gate supply may be, but has not been demonstrated to be, as reliable as firm transportation:

A term contract to purchase city gas supply (which can include local production) on a firm basis might be as reliable as firm interstate pipeline capacity, at least during the term of that contract. On the other hand, if a utility waits to purchase city gas supply until colder than normal weather has occurred and necessitates the purchase of additional supplies, the city gas market may not be a reliable source for that incremental supply. The reliability of the city gas market will depend upon the robustness of that market, and the robustness will in turn depend upon the relationship between the demand in that market and the total quantity of pipeline transportation capacity available to bring gas supplies to that market. If there is ample pipeline capacity into a market, then supply will be available there on short notice. If the pipeline capacity is not ample in relation to the loads, then the city gas supply may not be available, especially at critical periods in colder than normal weather.<sup>43</sup>

Focusing principally on the company's five-year forecast, Mr. Miller recommended that the Commission issue a warning under MCL 460.6h(7) and require additional information in the next plan case as follows:

[T]he Company has not provided an adequate forecast of how it expects to obtain secure and reliable gas supplies if it should experience colder than normal conditions in the next five years. The Commission should tell Consumers that it is unlikely to permit Consumers to recover any excessive costs the Company may incur because of any failure to develop

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<sup>43</sup> See 2 Tr 274.

and secure approval of an appropriate policy regarding the acquisition of firm transportation capacity. The Commission should also require Consumers to include in its next GCR plan and five-year forecast a complete discussion of the state of the markets for firm pipeline transportation services into Michigan and firm city gas supplies in Michigan, to support whatever policy the Company chooses to adopt “to determine the proper level of transportation capacity.”<sup>44</sup>

In his rebuttal testimony, Mr. Howard first took issue with some of the terms Mr. Miller used,<sup>45</sup> and further explained:

Consumers is not planning to simply substitute interruptible capacity in place of the firm transportation contracts that are terminating. In addition, Consumers has access to natural gas supplies from several basins throughout North America which is transported to consumers using multiple pipelines. Consumers is not dependent on any one pipeline exclusively for transportation of gas supply.<sup>46</sup>

He presented Exhibit A-36 to show that gas utilities have not largely taken up all available firm pipeline capacity, explaining that less than half of all firm transportation with a primary delivery point of Consumers is held by the utility on each listed pipeline:

Producers, Marketers and generating facilities hold the majority of the firm transportation having a primary delivery point of Consumers which bodes well for the strategy employed by the company to avail itself of the most reliable supplies at a cost that may be more advantageous than securing firm pipeline capacity.<sup>47</sup>

Mr. Howard also testified that in past GCR periods, the company has relied on short-term firm transportation and city-gate supplies to fill the gap between the company’s firm

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<sup>44</sup> See 2 Tr 279.

<sup>45</sup> See 2 Tr 220, asserting that Mr. Miller’s use of the following terms was vague: “markets”, “important routes”, “robust”, “short-term basis” and “critical times”.

<sup>46</sup> See 2 Tr 220.

<sup>47</sup> See 2 Tr 221.

transportation contracts and requirements under colder-than-normal weather conditions.<sup>48</sup>

In his initial brief, the Attorney General urges the Commission to issue a section 7 warning to the company. He quotes Mr. Howard's testimony at 2 Tr 209-210, suggesting an inconsistency between Mr. Howard's testimony that firm transportation contracts are entered into in order to meet both normal and design winter conditions, and his testimony that the company is considering using citygate supplies to replace current firm transportation.<sup>49</sup> The Attorney General argues that because the company has "no concrete and identified plan for acquiring needed future pipeline transportation," the Commission should warn the company that it would be unlikely to permit recovery of related costs unless the company presents a more complete justification of its pipeline plans in the future. Addressing Mr. Howard's rebuttal testimony, the Attorney General argues:

CECo's rebuttal testimony provides some information about the state of the markets for firm pipeline transportation and firm citygate supplies. But since CECo did not relate this general information to its planned mix of transportation and supply because it did not disclose the way it expects to replace the Trunkline contract with a combination of these two supply arrangements. Part of the specific information that is absent from the record even after rebuttal testimony was provided related to the length of the terms of any pipeline or citygate supply contracts the Company plans to use.<sup>50</sup>

Consumers Energy argues that it plans to maintain adequate firm transportation and/or firm citygate supply for the GCR period, and that any warning would be premature and unnecessary. The company cites Mr. Howard's testimony at 2 Tr 220

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<sup>48</sup> See 2 Tr 221-222, citing e.g. his testimony in Case No. U-15704 at page 20.

<sup>49</sup> See Attorney General initial brief, page 10.

<sup>50</sup> See Attorney General initial brief, page 11.

and its discovery responses included in Exhibit AG-1, indicating that the company is in negotiations to replace the capacity with firm transportation or firm citygate supplies, and that further disclosure could impair the company's negotiating position. The company also cites Mr. Miller's testimony indicating that he did not recommend modifying the company's plan for the 2012-2013 GCR year.<sup>51</sup>

Additionally, the company objects to the Attorney General's request that the Commission require more detailed information in the company's next plan case filing. In its reply brief, the company cites the Commission's February 13, 2009 decision in Case No. U-15454 as follows:

The Attorney General's proposal that the company be directed to include "a complete discussion of the state of the markets for firm transportation services into Michigan and firm citygate supplies in Michigan" is overly broad, unwarranted, and should not be adopted. In its next GCR Plan case Consumers Energy will identify how it replaced firm transportation capacity when the Trunkline transportation contract expired October 31, 2012 and why the approach adopted is reasonable. At page 13 of its February 13, 2009 order in Case No. U-15454 the Commission agreed with Consumers Energy "that the task of preparing quantitative analyses of data not necessarily germane to the utility's direct case in an Act 304 proceeding should not be made an ongoing utility responsibility." This principle is applicable to the Attorney General's overly broad request in the current case. The Commission should decline to issue any warnings or to mandate that "a complete discussion of the markets" be provided in the next GCR Plan case. If there are questions in the next case, they should be raised in the context of that case and in the context of the evidentiary presentation in that case.<sup>52</sup>

The Attorney General disputes the company's contention that a warning is premature, arguing that the statutory warning does not require a disallowance of costs

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<sup>51</sup> See Consumers Energy reply brief, page 18, citing Miller, 2 Tr 278, 279.

<sup>52</sup> See Consumers Energy reply brief, page 18.

incurred in future GCR plans, but explicitly contemplates a warning when there is reason for doubt.<sup>53</sup>

This PFD concludes that a section 6h(7) warning to Consumers Energy regarding its future transportation and city gate supply contracts is not necessary. Section 6h(7) provides:

In its final order in a gas supply and cost review, the commission shall evaluate the decisions underlying the 5-year forecast filed by a gas utility pursuant to subsection (4). The commission may also indicate any cost items in the 5-year forecast that on the basis of present evidence, the commission would be unlikely to permit the gas utility to recover from its customers in rates, rate schedules, or gas cost recovery factors established in the future.<sup>54</sup>

First addressing the Attorney General's suggestion that the company has been inconsistent in expressing its potential reliance on firm transportation, a review of Mr. Howard's testimony in its entirety shows that his statement that the company would use firm transportation to meet normal and design winter conditions was presented in the following context:

The Company balances transportation capacity with sales requirements, the operation of Company storage fields and the availability of citygate supply. Firm transportation contracts are entered into in order to meet both normal and design winter conditions for both GCR customers and any returning GCC customers.<sup>55</sup>

Based on this context, it does not seem appropriate to conclude that Mr. Howard meant that the company relied exclusively on firm transportation contracts to meet design

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<sup>53</sup> See reply brief, page 10.

<sup>54</sup> See MCL 460.6h(7).

<sup>55</sup> See 2 Tr 209.

winter conditions, since the immediately preceding sentence referred to balancing transportation capacity with, among other things, the availability of citygate supplies.

Additionally, although the company has not finalized or presented specific contracts or quantities of firm transportation and city gate supplies for review for the five-year forecast period that was the principal basis of Mr. Miller's concern, a section 6h(7) warning should relate to identifiable "cost items" or plans. There is no need to warn the company that contracts it has not entered into will be scrutinized in the future for reasonableness and prudence, because such review is inherent in the GCR planning and reconciliation process. Contracts not yet entered into, and strategies not yet identified, cannot be yet be reviewed by the Commission, and such review must necessarily await development of the price and quantity details the Attorney General has identified as missing in this case.<sup>56</sup>

Nonetheless, the Attorney General's concern is an important one, going to the heart of the reliability of the company's gas supply over the five-year forecast period. Given the magnitude of the Trunkline contract quantities, it is appropriate for the Commission to expect a detailed analysis of the reliability as well as the cost of the alternatives available to the company, and the company's rationale for its selection(s) among competing alternatives in the reconciliation of this GCR period and in its next GCR plan case. Thus, rather than prescribe a particular format for the company's evidentiary presentations in those future cases, this PFD recommends that the Commission expressly articulate its expectation that the company will provide a

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<sup>56</sup> The Attorney General did not argue that Consumers Energy failed to meet the filing requirements imposed by section 6h(4), MCL 460.6h(4).

thorough analysis, with particular attention to the reliability of the supply options chosen to meet colder-than-normal weather conditions.

D. Peak day forecast

The Attorney General raised an issue with the company's forecast of its design peak day load. The company's forecast design and peak day winter requirements were presented by Mr. Howard, and Ms. Harvey. The company plans for an 80-heating-degree-day peak winter load, which is approximately equal to -15° Fahrenheit. The company forecasts that at these design conditions, the required daily load will be 3,404 MMcf.<sup>57</sup>

Ms. Harvey testified that the company determines its peak day load from its history of daily gas sendouts:

Analyses are completed to determine the gas sendout that would have occurred if a design cold temperature of 80 HDD had occurred. The probably peak day sendouts since the winter of 1995/1996 are graphed and the trend of these data points is projected through the GCR Plan period. The trend line provides the estimate of the non-electric GCR/GCC and transport design peak day sendouts for the various years in the Plan period.<sup>58</sup>

Mr. Miller's testimony took issue with the design peak day forecast, and in particular with the company's use of the historical data to project the 80-heating-degree-day load appropriate for the plan period. Relying on information obtained in discovery, he explained the company's modeling process as follows:

In the first step of this process, Consumers estimates the load (or sendout) that would have occurred if it had experienced a day with design weather conditions during the

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<sup>57</sup> See Exhibits A-16, Howard at 2 Tr 211.

<sup>58</sup> See 2 Tr 104.



winter season that has just ended. For example, in the spring of 2011, Consumers estimated the design peak day load for the 2010-2011 winter season, which ran from November 2010 through March 2011. This estimate, which does not appear in the direct testimony or exhibits of any Company witness, was 3,009 MMcf. It includes all of Consumers' GCR and GCC loads and its end-user transportation loads. It does not include an estimated 18 MMcf of Company fuel use and an allowance of 260 MMcf for the MCV (Midland Cogeneration Venture) and other gas-fired electric generating stations on the Consumers system. These excluded items are added at the third step of the analysis. I call the result of this first step as Consumers' estimate of its "non-electric design peak day load." . . .

In the second step, Consumers assembles its estimates of the non-electric design day peak load for each winter season from 1995-1996 through the most recently completed winter season. Consumers then fits a trend line to the sequence of these annual estimates and extends the trend line into the future. Consumers assumes that the non-electric design day peak load in future winter seasons will lie on this trend line. . .

In the third step of the forecasting process, Consumers adds the allowances of 18 MMcf for Company fuel use and 260 MMcf for electric generation (including MCV) to the non-electric design day peak load forecast of 3,125 MMcf for 2012-2013. The result (3,125 MMcf plus 260 MMcf plus 18 MMcf) is 3,403 MMcf.<sup>59</sup>

Mr. Miller objected to the second step, in which the company fits a time-based trend line to the adjusted historical data, arguing that the company's projection methodology is not appropriate for the data. He presented the historical data in his Exhibit AG-3:

Even a cursory examination of Exhibit AG-3 shows that the history of Consumers' non-electric design peak day estimates for 1995-1996 through 2010-2011 cannot reasonably be characterized by a single mathematical trend. The "trend line" that Consumers has fitted to this history is

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<sup>59</sup> See 2 Tr 288-290.

not a trend, and it does not explain any of the changes in peak load that have occurred during this period. If extension of this trend line beyond 2010-2011 yields a reasonable estimate of the non-electric design peak day loads appropriate for Consumers' gas supply planning, that result is merely a fortuitous accident, not statistically supported.<sup>60</sup>

Mr. Miller further explained that the company fit a "power fit" curve to the historical data to make the projection, which he characterized as very close to linear, and explained that this curve has a very poor fit, and is not appropriate for the data which exhibit both upward and downward trends during different periods. Although he identified two alternatives to significantly improve the fit of a curve to the data, his principal objection was to the reliance on time as the only variable:

Fitting a trend line to the historical record of Design Day Loads, with no regard to the effects of any factor other than the passage of time, is not a good way to forecast future Design Day Loads. I am not aware of a way to defend either a quadratic trend or my truncated linear trend as a proper model of the way Design Day Loads should be expected to change over the course of time, and that is the reason I am not recommending that the Commission modify Consumers' GCR plan to use one of them. On the other hand, the far superior fits that I have achieved with these alternative trend line formulations is clear evidence that Consumers' Power Fit trend line is not a statistically valid way to forecast the Design Day Load.<sup>61</sup>

He therefore recommended that the company be cautioned regarding its design peak day forecast, and further recommended that the company develop a better forecasting method that considers factors with more explanatory power than the passage of time.

In response, the company presented the rebuttal testimony of Ms. Harvey, who objected to Mr. Miller's analysis as a reduction of the peak day forecast to a simple

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<sup>60</sup> See 2 Tr 290-291; also see 2 Tr 294-303 for his further discussion of perceived deficiencies in the company's forecast method.

<sup>61</sup> See 2 Tr 301.

mathematical or statistical exercise, and emphasized the importance of validating the reasonableness of the forecast results. She presented Exhibit A-35, which like Exhibit AG-3 presents the historical data, and shows the power fit regression results and the company's forecast. She testified that the design peak day estimates were compared to recent history and evaluated using professional judgment.<sup>62</sup> She further testified that the estimate presented in the plan will be updated during the GCR plan year, and also testified with specific reference to Mr. Miller's recommendation that the company look for a relationship to the design peak day load and gas sales: "Going forward, enhancement or refinements to the design peak day load estimate approach will be considered by Consumers Energy for potential use in the future."<sup>63</sup>

In his initial brief, the Attorney General reviewed Mr. Miller's testimony and requested a warning under MCL 460.6h(7) as follows:

[T]he Commission should warn CECO that the Commission would be unlikely to accept the Company's design-day load forecast in the future unless CECO provides an explanation and justification of the methods it actually uses to determine a "reasonable" forecast.<sup>64</sup>

In its briefs, Consumers Energy argued that there is no need for the Commission to issue a warning pursuant to MCL 460.6h(7) because it has justified the reasonableness of the result of its projection.<sup>65</sup> In addition to Ms. Harvey's testimony, Consumers Energy cites the following testimony of Mr. Miller in cross-examination:

Q. Do you disagree with Consumers Energy's conclusion that for the 2012-2013 GCR year a design day peak load of 3126 MMCF is a reasonable assumption?

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<sup>62</sup> See 2 Tr 141.

<sup>63</sup> See 2 Tr 143.

<sup>64</sup> See Attorney General brief, pages 8-9.

<sup>65</sup> See Consumers Energy brief, pages 39-41, and Consumers Energy reply brief, pages 13-16.

A. I don't know that it's an assumption. I don't disagree that it's appropriate to use that number in the GCR plan that we are addressing here. I think I said so in my testimony.<sup>66</sup>

The company argues that it presented evidence that its estimates are reasonable, within the actual historical variances experienced, consistent with loads prior to the downturn in the economy, consistent with potential loads in the event of economic recovery, and in line with the recent upward trend of peak day loads being experienced.<sup>67</sup> Consumers Energy further argues that a warning is not appropriate because it intends to improve its modeling of the peak day design load in future cases.

In his reply brief, noting Ms. Harvey's testimony and the company's argument that it will refine and enhance its modeling in the future, the Attorney General withdraws his request for a section 7 warning, requesting instead that the Commission identify the company's commitment in its final order.<sup>68</sup>

On this basis, this PFD recommends that the Commission expressly acknowledge its expectation, based on Mr. Miller's and Ms. Harvey's testimony, that the company will refine its statistical modeling of the design-peak day consumption, and will present the refinements as well as its other justifications for the reasonableness of its forecast in its next plan case filing.

#### IV.

#### **TRANSCRIPT CORRECTIONS**

In its initial brief, Consumers Energy also requests that the transcript be corrected as follows:

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<sup>66</sup> See 2 Tr 338-339.

<sup>67</sup> See Consumers Energy reply brief at 15, citing Exhibit A-35, and 2 Tr 141-144, 177.

<sup>68</sup> See Attorney General reply brief, pages 11-12.

At 2 Tr 156, lines 18-20, the transcript reads: “the reason is the one is the normal weather stranded gas in storage, so we are buying less of the current market-based purchases.” The sentence is referring to warmer than normal weather and should read: “the reason is the warmer than normal weather stranded gas in storage, so we are buying less of the current market-based purchases.” See 2 Tr 63, 159.<sup>69</sup>

No party filed any objection to this request. A review of the passage shows that the transcript correction to 2 Tr 156, lines 18-20, is appropriate, and should be made.

In addition, this PFD notes the following correction in the transcript that is obvious and should be made: in numerous locations<sup>70</sup>, counsel for MCAAA is referred to as “Mr. Keske”. The transcript should read “Mr. Keskey” at those locations.

Any party objecting to these corrections can indicate their objections in their exceptions to this PFD.

## V.

### **CONCLUSION**

Based on the foregoing discussion, this PFD recommends that the Commission approve the company's filed GCR plan and factor of \$5.4503 per Mcf, the proposed contingency matrix, and the revised fixed price purchase guidelines in Exhibit A-9. In addition, this PFD recommends that the Commission expressly state its expectations that the company will present an improved forecasting methodology in its next plan

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<sup>69</sup> See Consumers Energy brief, page 50.

<sup>70</sup> See 2 Tr 14 (lines 24 and 25), 2 Tr 25 (lines 12 and 17), 2 Tr 46 (line 25), 2 Tr 52, (lines 11 and 20), 2 Tr 53 (line 21), 2 Tr 54 (line 9), 2 Tr 62 (lines 7, 16 and 24), 2 Tr 63 (line 22), 2 Tr 86 (line 21), 2 Tr 181 (line 25), 2 Tr 185 (line 7), 2 Tr 186 (line 2), 2 Tr 187 (line 11), 2 Tr 248 (line 16), 2 Tr 249 (lines 3, 5 and 25), 2 Tr 314 (lines 7 and 9), 2 Tr 319 (lines 13 and 23), 2 Tr 326 (line 14), 3 Tr 358 (line 2), 3 Tr 359 (line 8), and 3 Tr 378 (lines 7 and 20).

case, and will present full and complete justification for its choices of firm transportation and/or citygate supplies to replace the expiring Trunkline contract.

MICHIGAN ADMINISTRATIVE HEARING  
SERVICES  
For the Michigan Public Service Commission

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Sharon L. Feldman  
Administrative Law Judge

November 1, 2012

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

STATE OF MICHIGAN	)		
	)	SS.	Case No. U-16924
County of Ingham	)		
_____	)		

P R O O F   O F   S E R V I C E

Dichondra R. Johnson being duly sworn, deposes and says that on November 1, 2012 A.D.  
she served a copy of the attached Proposal for Decision via E-Mail, to the persons as shown  
on the attached service list.

\_\_\_\_\_  
Dichondra R. Johnson

Subscribed and sworn to before me  
this 1<sup>st</sup> day of November 2012.

\_\_\_\_\_  
Gloria Pearl Jones  
Notary Public, Ingham County, MI  
My commission expires June 5, 2016  
Acting in Eaton County

## ATTACHMENT A

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